

Martha Lanoue
14 Tudor Lane
Naugatuck, CT 06770

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health

vs.

Martha Lanoue, RN
Registered Nurse License No. R27532
respondent.

CASE PETITION NO. 990331-010-026

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated April 29, 1999 (Dept. Exh. 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Martha Lanoue (hereinafter "respondent") which would subject respondent's Registered Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges, accompanying affidavits and reports, the Board found that the continued practice of nursing by respondent presented a clear and immediate danger to public health and safety. On May 5, 1999, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the Registered Nurse license of respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Board. Exh. 1).

The Board issued a Notice of Hearing dated May 5, 1999, scheduling a hearing for May 19, 1999. Dept. Exh. 1.

At the request of respondent, the hearing was continued and took place on October 20, 1999, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was present during the hearing and was represented by counsel. Transcript, October 20, 1999, p. 2.

Respondent submitted a written Answer to the Statement of Charges. Respondent Exh. A.

At the conclusion of the hearing, the Board vacated the Summary Suspension of respondent's registered nurse license which was ordered on May 5, 1999. Transcript, October 20, 1999, pp. 58-59.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued Registered Nurse License Number R27532 on July 16, 1975. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-B; Answer: Respondent Exh. A.
2. Pursuant to a Memorandum of Decision dated January 22, 1997, respondent's Registered Nurse license was placed on probation for a period of three (3) years effective February 1, 1997. The Order was based on the Board's findings that respondent used and abused the controlled substance percocet which she diverted from St. Mary's Hospital, Waterbury, Connecticut during 1994 and 1995; that respondent falsified controlled substance records; and that respondent excessively used and abused alcohol. Dept. Exh. 1-E.
3. The Memorandum of Decision specifically provided that respondent to submit to at least two (2) random alcohol/drug screens monthly during the first eighteen months of the probationary period and at least one random alcohol/drug screen monthly during the last eighteen months of the probationary period. Random alcohol/drug screens could be ordered by respondent's therapist and/or personal physician and/or the Board, and reports of the screens were to be reported to the Board. Respondent was also required to cause monthly evaluation reports to be submitted to the Board by her therapist. Dept. Exh. 1-E.
4. During January 1998, respondent caused only one alcohol/drug screen result to be submitted to the Board. Dept. Exh. 1-A-7.
5. During February, April, May and June 1998, no alcohol/drug screen results for respondent were submitted to the Board. Dept. Exh. 1-A-7.
6. A urine specimen which respondent gave on April 16, 1998, was disqualified since chain of custody procedures were not followed. Dept. Exh. 1-A-1.

7. Urine specimens respondent gave on April 28, May 11, May 22, June 9, and June 30, 1998, were not received by the testing laboratory. In addition chain of custody forms for these dates were not properly completed. Dept. Exh. 1-A-1.
8. During August 1998, respondent caused only one alcohol/drug screen result to be submitted to the Board. Dept. Exh. 1-A-7.
9. By letter dated September 10, 1998, respondent was notified that because there was no record of urine screens results for April, May and June 1998, urine screening would continue to be required at a twice monthly frequency until December 1, 1998. Dept. Exh. 1-A-3.
10. During September, October and November 1998, respondent caused only one alcohol/drug screen result to be submitted to the Board. Dept. Exh. 1-A-7.
11. By letter dated April 16, 1999, respondent was advised that for December 1998, and January, February, March and April 1999, no alcohol/drug screen results for respondent had submitted to the Board. Dept. Exh. 1-A-6; Answer: Respondent Exh. A.
12. By letter dated April 16, 1999, respondent was advised that for December 1998, and January, February, March and April 1999, no monthly evaluation reports were submitted to the Board by respondent's therapist. Dept. Exh. 1-A-6; Answer: Respondent Exh. A.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Martha Lanoue held a valid Registered Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

Paragraphs 1, 2, 3 and 4 of the Statement of Charges are admitted by respondent. Answer: Respondent Exh. A.

PARAGRAPH 5 of the Statement of Charges alleges that respondent violated the terms of the Memorandum of Decision dated January 22, 1997, in that she submitted:

- a. only one screen in January 1998;
- b. no screens in February 1998;
- c. no screens in April 1998;
- d. no screens in May 1998;
- e. no screens in June 1998;
- f. only one screen in August 1998;
- g. only one screen in September 1998;
- h. only one screen in October 1998;
- i. only one screen in November 1998;
- j. no screens in December 1998;
- k. no screens in January 1999;
- l. no screens in February 1999;
- m. no screens in March of 1999; and
- n. no screens in April 1999.

The Department proved by a preponderance of the evidence that respondent violated paragraph 5, parts a-n, inclusive.

Respondent admits the allegations contained in paragraphs 5a, 5b, 5f, 5j, 5k, 5l, 5m, and 5n. Respondent denies the allegations contained in paragraphs 5c, 5d, 5e, stating that she submitted urine specimens but the lab did not process them. Respondent denies the allegations contained in paragraphs 5g, 5h, 5i, stating that she submitted only one urine specimen pursuant to the terms of the Memorandum of Decision. Answer: Respondent Exh. A.

With regard to Paragraphs 5c, 5d, and 5e, although respondent claims she submitted urine specimens which were not processed by the laboratory, the fact remains that no urine screen results were submitted for the months April, May and June 1998. The fact that no urine screen results were submitted, in and of itself, violates the terms of the Memorandum of Decision dated January 22, 1997.

With regard to Paragraphs 5g, 5h, 5i, respondent claims she submitted only one urine specimen per month, for the months in question, as specifically required by the Memorandum of Decision dated January 22, 1997. The Memorandum of Decision states that respondent shall submit to "at least one (1) random alcohol/drug screen monthly during the final eighteen months of the probationary period".

Although respondent did submit to one screen per month during the months of September, October, and November 1998, she had been requested to continue submitting two (2) screens per month due to the previous problems in April, May and June, 1998.

PARAGRAPH 6 of the Statement of Charges alleges that respondent violated the terms of the Memorandum of Decision dated January 22, 1997, in that she failed to submit therapist reports for:

- a. December of 1998;
- b. January of 1999;
- c. February of 1999;
- d. March of 1999; and
- e. April of 1999.

Respondent admits the allegations contained in Paragraph 6. Answer: Respondent Exh. A.

Based on its findings, the Board concludes that the Department has met its burden of proof by a preponderance of the evidence, with respect to all paragraphs and subparagraphs in the Statement of Charges presented in this matter. The Board concludes that respondent failed to comply with the terms of the Memorandum of Decision dated January 22, 1997, and that said conduct constitutes a violation of the probation of her registered nurse license. Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

Order

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. That the probation of respondent's Registered Nurse license, No. R27532, is extended for a period of two (2) years, until February 1, 2002.
2. If any of the following conditions of probation are not met, respondent's registered nurse license may be subject to further disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut:
 - A. During the period of probation the Board shall pre-approve respondent's employment or change of employment within the nursing profession.

- B. Respondent shall provide a copy of this Memorandum of Decision to any and all employers if employed as a nurse during the probationary period. The Board shall be notified in writing by any employer(s), within thirty (30) days of the commencement of employment, as to receipt of a copy of this Memorandum of Decision.
- C. If employed as a nurse, respondent shall cause employer reports to be submitted to the Board by her immediate supervisor, once every other month, during the entire probationary period.
- D. The employer reports cited in Paragraph C above shall include documentation of respondent's ability to safely and competently practice nursing. Employer reports shall be submitted directly to the Board at the address cited in Paragraph O below.
- E. Should respondent's employment as a nurse be involuntarily terminated, respondent and/or her employer shall notify the Board within seventy-two (72) hours of such termination.
- F. At her own expense, respondent shall engage in therapy and counseling for chemical dependency with a licensed or certified therapist during the entire period of probation.
- G. Respondent shall provide a copy of this Memorandum of Decision to her therapist. The Board shall be notified in writing by her therapist, within thirty (30) days of the effective date of this Decision, as to receipt of a copy of this Memorandum of Decision.
- H. Respondent shall cause evaluation reports to be submitted to the Board by her therapist, once every other month, during the entire probationary period.
- I. The therapist reports cited in Paragraph H above shall include documentation of dates of treatment, and an evaluation of respondent's progress, including alcohol and drug free status, and ability to safely and competently practice nursing. Therapist reports shall be submitted directly to the Board at the address cited in Paragraph O below.
- J. At her own expense, respondent shall be responsible for submitting to random, chain of custody urine screens for alcohol and drugs for the entire probationary period, as ordered

by her therapist, and/or personal physician, and/or employer. Alcohol/drug screening may also be ordered by the Board of Examiners for Nursing to ensure compliance with this Order. Random alcohol/drug screens shall be legally defensible in that chain of custody procedures must be followed throughout the screening process. Respondent shall be responsible for immediately notifying the laboratory, her therapist and/or personal physician and the Board of Examiners for Nursing of any drug(s) she is taking.

There must be at least one (1) such random alcohol/drug screen monthly during the entire probationary period.

Random alcohol/drug screens shall be negative for the presence of alcohol and drugs. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer (GC/MS) testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

Random alcohol/drug screens must include testing for the following substances:

- Amphetamines
- Barbiturates
- Benzodiazepines
- Cannabinoids (THC Metabolites)
- Cocaine
- Meperidine (Demerol)
- Methadone
- Methaqualone
- Opiates (Metabolites)
- Phencyclidine (PCP)
- Propoxyphene
- Ethanol (alcohol)

Reports of random alcohol and drug screens shall be submitted directly to the Board, at the address cited in Paragraph O below, by respondent's therapist, personal physician or the testing laboratory.

- K. Respondent shall not obtain for personal use and/or use alcohol or any drug that has not been prescribed for her, for a legitimate purpose, by a licensed health care practitioner authorized to prescribe medications. Respondent shall not abuse and/or excessively use any drugs that are prescribed for a legitimate medical purpose.

- L. Respondent is hereby advised that the ingestion of poppy seeds may produce a positive drug screen result indicating the presence of opiates/morphine and that the ingestion of mouthwash may produce a positive result indicating the presence of alcohol. For that reason, any food substance containing poppy seeds, and mouthwash should be avoided during the probationary period. In the event that a drug/alcohol screen is positive for opiates/morphine and/or alcohol, the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such positive screen.
- M. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of employment.
- N. The Connecticut Board of Examiners for Nursing must be informed in writing prior to any change of address.
- O. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, RN, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P. O. Box 340308
Hartford, CT 06134-0308

- 3. Any deviation from the terms of probation, without prior written approval by the Board of Examiners for Nursing, shall constitute a violation of probation which will be cause for an immediate hearing on charges of violating this Order. Any finding that respondent has violated this Order will subject respondent to sanctions under §19a-17(a) and (c) of the General Statutes of Connecticut, including, but not limited to, the revocation of her license. Any extension of time or grace period for reporting granted by the Board of Examiners for Nursing shall not be a waiver or preclude the Board's right to take subsequent action. The Board of Examiners for Nursing shall not be required to grant future extensions of time or grace periods. Notice of revocation or other disciplinary action shall be sent to respondent's address of record (most current address reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department of Public Health or the Board of Examiners for Nursing).

4. This Memorandum of Decision becomes effective on the date signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs respondent, Martha Lanoue, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 2nd day of February 2000.

BOARD OF EXAMINERS FOR NURSING

By 